



September 14, 2020

By Electronic Mail

Loren Denton
Associate Director
Office of Civil Enforcement
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N.W.
Mail Code: 2243A
Washington, D.C. 20460

Re: September Update to Response to April 24, 2020 Letter from the U.S. Environmental Protection Agency

Dear Dr. Denton:

Birla Carbon USA, Inc. (“Birla” or the “Company”) submits this letter as the fourth update to its May 22, 2020 response to the April 24, 2020 letter it received from the U.S. Environmental Protection Agency (“EPA” or the “Agency”) regarding force majeure notices the Company submitted on March 16 and 18, 2020 in anticipated noncompliance with obligations under the Consent Decree between the United States of America, the Louisiana Department of Environmental Quality (“LDEQ”), the Kansas Department of Health and Environment (“KDHE”), and Columbian Chemicals Company. Consent Decree, *United States et al. v. Columbian Chem. Co.*, No. 6:17-cv-01661-RGJ-CBW (W.D. La. June 11, 2018).

I. North Bend

Construction is ongoing at North Bend for installation of equipment required under the Consent Decree. As explained in our August 17, 2020 letter to you, all engineer personnel and project subcontractors were sent offsite when two individuals tested positive for COVID-19. To protect its employees and subcontractors from exposure, Birla’s third-party engineer of record and construction management consultant, SNC-Lavalin Constructors Inc. (“SNC”), instituted a stand down on August 12, during which all construction activities ceased. On August 17, SNC and its subcontractors returned and construction resumed at North Bend.

On August 24, construction and all facility operations ceased and all personnel were evacuated as the plant was shut down and secured in accordance with the facility's hurricane plan. On August 25, Tropical Storm Marco made landfall with the eye passing approximately 10 miles east of the facility. On August 27, Hurricane Laura made landfall west of the facility. The facility suffered some minor wind damage and was left with significant standing water in some parts. On August 28, personnel returned to begin the process of clearing equipment to restart the facility. On August 29, plant start-up operations began. On August 31, production and normal operations, including construction, resumed.

It is unclear how these events will delay the overall schedule. As noted in our prior updates, there are also continuing delays to the supply chain for materials and equipment needed to complete projects required under the Consent Decree. As an example, Birla's seawater system vendor still anticipates that it may incur delays of two to four months due to lack of access to manufacturing facilities. There are also delays and disruptions in the available services to and mobility of SNC's staff.

Overall delays in meeting North Bend Consent Decree deadlines are still difficult to specifically estimate at this time.

II. Hickok

Construction is ongoing at Hickok for installation of equipment required under the Consent Decree. There are no significant changes to the schedule since our last update. At this time, Birla still expects a delay of two to four months beyond the deadlines specified in the Consent Decree for installation and continuous operation of specified control technologies.

We will update you with more details as they become available. Please contact David Buente at 202- 255-8684 or dbuente@sidley.com if you have any questions in the meantime.

Sincerely,



Randy Waskul
Global Director, Health, Safety & Environmental

CC: Kellie Ortega, U.S. EPA (by email)
Patrick Foley, U.S. EPA (by email)
Chris Williams, U.S. EPA (by email)
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